

failures, and to recommend such changes, cancellations, or additions as necessary, to be conducted under contract with the National Academy of Sciences, \$5,000,000, to remain available until expended.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, at this point I make a point of order against the language appearing at lines 20 through 24 on page 32, and on through the first two lines of page 33.

The reason for my point of order, Mr. Chairman, is twofold. First, this is legislation in an appropriation bill; and it constitutes an appropriation of funds not previously authorized by law.

So that the language referred to is again violative of rule XXI, clause 2, and I would point out again, Mr. Chairman, that the rule should be so interpreted as to require strict compliance.

Mr. Chairman, I am quoting from page 466 of the Manual of the Rules of the House of Representatives, as follows:

In the administration of the rule, it is the practice that those upholding an item of appropriation should have the burden of showing the law authorizing it.

Mr. Chairman, I would point out that neither the statute setting up the National Academy of Sciences affords the National Academy of Sciences the duty, responsibility, or power to investigate or to study EPA. For that reason, Mr. Chairman, I make this point of order.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, I make the additional point of order that the language in the paragraph appearing at the top of page 33, containing the words, "to remain

available until expended," is also subject to a point of order. . . .

THE CHAIRMAN:⁽¹²⁾ Does the Chair understand that the gentleman from Mississippi concedes the point of order?

MR. [JAMIE L.] WHITTEN [of Mississippi]: I do. And I beg the indulgence of the Chair that we may write an amendment to replace the section. . . .

THE CHAIRMAN: The point of order is sustained, and the language is stricken.

§ 38. Reimbursements

As used in this section, the term "reimbursements" refers to the use of generated proceeds to repay funds.⁽¹³⁾ This section also addresses the consequences of provisions requiring repayments, refunds and other mechanisms generating funds from other than direct appropriations.

Refunds Credited to Current Appropriation

§ 38.1 Language in an appropriation bill for emergencies arising in the Diplomatic and

12. James C. Wright, Jr. (Tex.).

13. See also § 30 (Transfer of Funds Not Limited to Same Bill), *supra*. And see Ch. 25 § 3, *supra*, for discussion of reappropriations.

Consular Service providing that “all refunds, repayments, or other credits on account of funds disbursed under this head shall be credited to the appropriation for this purpose current at the time obligations are incurred or such amounts are received” was conceded and held to be legislation on an appropriation bill and not in order.

On Mar. 15, 1945,⁽¹⁴⁾ during consideration in the Committee of the Whole of a general appropriation bill (H.R. 2603), a point of order was raised against the following provision:

Emergencies arising in the Diplomatic and Consular Service: To enable the President to meet unforeseen emergencies arising in the Diplomatic and Consular Service, to be expended pursuant to the requirement of section 291 of the Revised Statutes (31 U.S.C. 107), \$16,000,000, of which not to exceed \$25,000 shall, in the discretion of the President, be available for personal services in the District of Columbia: *Provided*, That all refunds, repayments, or other credits on account of funds disbursed under this head shall be credited to the appropriation for this purpose current at the time obligations are incurred or such amounts are received.

MR. [JOSEPH P.] O'HARA [of Minnesota]: Mr. Chairman, I make the

14. 91 CONG. REC. 2305, 79th Cong. 1st Sess.

point of order against the language contained in the paragraph, beginning in line 11—

That all refunds, repayments, or other credits on account of funds disbursed under this head shall be credited to the appropriation for this purpose current at the time obligations are incurred or such amounts are received—

That it is legislation on an appropriation bill.

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, I concede the point of order.

THE CHAIRMAN:⁽¹⁵⁾ The point of order is sustained.

Crediting Proceeds From Sales

§ 38.2 A provision in a general appropriation bill that appropriations contained in the Act may be reimbursed, from the proceeds of sales of certain material and supplies, for expenditures incident to such sales, was conceded and held to be legislation on an appropriation bill and not in order.

On Mar. 29, 1938,⁽¹⁶⁾ during consideration in the Committee of the Whole of the military appropriation bill (H.R. 9995), a point of order was raised against the following provision:

The Clerk read as follows:

15. Wilbur D. Mills (Ark.).

16. 83 CONG. REC. 4315, 4316, 75th Cong. 3d Sess.

Sec. 4. Appropriations contained in this act may be reimbursed from the proceeds of sales of old material, condemned stores, supplies, or other property of any kind on account of expenditures from such appropriations incident to the handling, preparation for sale, sale, and disposition of such property.

MR. [J. WILLIAM] DITTER [of Pennsylvania]: Mr. Chairman, I make the point of order against the section that it is legislation on an appropriation bill. If the chairman of the subcommittee requests me to withhold the point of order so that he may explain to the House the justification which he or his committee has for including this section in the bill I shall withhold the point of order for the time being. . . .

MR. [J. BUELL] SNYDER of Pennsylvania: Mr. Chairman, I concede the point of order is well taken.

THE CHAIRMAN:⁽¹⁷⁾ The gentleman from Pennsylvania concedes the point of order to be well taken that this is legislation on an appropriation bill. The point of order is sustained.

§ 38.3 Language in an appropriation bill for maintenance and operation of air-navigation facilities, for the purchase of food and other subsistence supplies for resale to employees "the proceeds from such resales to be credited to the appropriation from which the expenditure for such supplies was made" was conceded and held to be legislation on an appropriation bill and not in order.

17. Luther A. Johnson (Tex.).

On Mar. 16, 1945,⁽¹⁸⁾ during consideration in the Committee of the Whole of a general appropriation bill (H.R. 2603), a point of order was raised against the following provision:

The Clerk read as follows:

The appropriations "Maintenance and operation of air-navigation facilities," Office of Administrator of Civil Aeronautics; "Salaries and expenses," Civil Aeronautics Board; and "Salaries and expenses," Weather Bureau, shall be available, under regulations to be prescribed by the Secretary, for furnishing to employees of the Civil Aeronautics Administration, the Civil Aeronautics Board, and the Weather Bureau in Alaska free emergency medical services by contract or otherwise and medical supplies, and for the purchase, transportation, and storage of food and other subsistence supplies for resale to such employees, [the proceeds from such resales to be credited to the appropriation from which the expenditure for such supplies was made;] and appropriations of the Civil Aeronautics Administration and the Weather Bureau, available for travel, shall be available for the travel expenses of appointees of said agencies from the point of engagement in the United States to their posts of duty at any point outside the continental limits of the United States or in Alaska.

MR. [ROBERT F.] JONES [of Ohio]: Mr. Chairman, a point of order. On page 75, line 3, the last word "the", all of line 4 and all of line 5. It is legislation on an appropriation bill and in violation of law.

18. 91 CONG. REC. 2376, 79th Cong. 1st Sess.

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, we concede the point of order.

THE CHAIRMAN:⁽¹⁹⁾ The point of order is sustained.

Commissary Revenue

§ 38.4 Language in a general appropriation bill providing that any part of the appropriation for salaries and expenses, penal and correctional institutions, shall be reimbursed from commissary earnings was conceded and held to be legislation on an appropriation bill and not in order.

On Mar. 16, 1945,⁽²⁰⁾ during consideration in the Committee of the Whole of a general appropriation bill (H.R. 2603), a point of order was raised against the following provision:

The Clerk read as follows:

Salaries and expenses, penal and correctional institutions: . . . \$13,300,000: *Provided*, That any part of the appropriations under this heading used for payment of salaries of personnel employed in the operation of prison commissaries shall be reimbursed from commissary earnings, and such reimbursement shall be in addition to the amounts appropriated herein. . . .

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Chairman, I make the

point of order against the language on page 51, beginning with "Provided", in line 15. . . .

MR. [LOUIS C.] RABAUT [of Michigan]: We concede the point of order, Mr. Chairman.

THE CHAIRMAN:⁽¹⁾ The point of order is sustained.

§ 38.5 Language in an appropriation bill for contingent expenses, foreign service, providing that "reimbursements incident to the maintenance of commissary service authorized . . . shall be credited to the appropriation for this purpose current at the time obligations are incurred or such amounts are received," was conceded and held to be legislation on an appropriation bill and not in order.

On Mar. 15, 1945,⁽²⁾ during consideration in the Committee of the Whole of a general appropriation bill (H.R. 2603), a point of order was raised against the following provision:

The Clerk read as follows:

Contingent expenses, Foreign Service: For stationery; blanks, record and other books; seals, presses, flags; signs; military equipment and supplies; repairs, alterations, preservation, and maintenance of

19. Wilbur D. Mills (Ark.).

20. 91 CONG. REC. 2366, 79th Cong. 1st Sess.

1. Wilbur D. Mills (Ark.).

2. 91 CONG. REC. 2304, 79th Cong. 1st Sess.

Government-owned and leased diplomatic and consular properties in foreign countries. . . . *Provided further*, That reimbursements incident to the maintenance of commissary service authorized under this head shall be credited to the appropriation for this purpose current at the time obligations are incurred or such amounts are received.

MR. [JOSEPH P.] O'HARA [of Minnesota]: Mr. Chairman, I make a point of order against the language in the proviso beginning on line 25, page 15, including all of lines 1, 2, 3, and 4 on page 16, on the ground that it is legislation on an appropriation bill.

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, we concede the point of order.

THE CHAIRMAN: ⁽³⁾ The point of order is sustained.

Available for Administrative Expenses

§ 38.6 A provision in an appropriation bill making appropriations for the United States Housing Authority and providing "not to exceed \$1,500,000 shall be available for such expenses incurred at the site and in connection with the construction of the United States Housing Authority non-Federal projects and shall be reimbursed in the discretion of the Administrator by the public housing agencies constructing

3. Wilbur D. Mills (Ark.).

such projects and such reimbursements shall be available for administrative expenses of the Authority," was conceded and held to be legislation and not in order on an appropriation bill.

On Mar. 15, 1939,⁽⁴⁾ during consideration in the Committee of the Whole of the Interior Department appropriation bill (H.R. 4852), the following proceedings took place:

UNITED STATES HOUSING AUTHORITY

Salaries and expenses . . . *Provided*, That of the \$4,500,000 hereby made available for administrative expenses of the Authority, not to exceed \$1,500,000 shall be available for such expenses incurred at the site and in connection with the construction of the United States Housing Authority non-Federal projects and shall be reimbursed in the discretion of the Administrator by the public housing agencies constructing such projects and such reimbursements shall be available for administrative expenses of the Authority: . . .

MR. [DUDLEY A.] WHITE of Ohio: Mr. Chairman, a point of order.

THE CHAIRMAN: ⁽⁵⁾ The gentleman will state it.

MR. WHITE of Ohio: . . . Then the language beginning in line 13, on page 14, the entire clause, which reads:

Provided, That of the \$4,500,000 hereby made available for adminis-

4. 84 CONG. REC. 2780, 76th Cong. 1st Sess.

5. Frank H. Buck (Calif.).

trative expenses of the Authority, not to exceed \$1,500,000 shall be available for such expenses incurred at the site, and in connection with the construction, of the United States Housing Authority non-Federal projects, and shall be reimbursed, in the discretion of the Administrator, by the public housing agencies constructing such projects, and such reimbursements shall be available for administrative expenses of the Authority.

That is a delegation of authority. It enlarges the scope of the existing authority under the original law, and therefore the entire paragraph should be stricken out on these points of order. This is legislation on an appropriation bill.

THE CHAIRMAN: Does the gentleman from Oklahoma [Mr. JOHNSON] desire to be heard?

MR. [JED] JOHNSON of Oklahoma: Mr. Chairman, we concede the points of order.

THE CHAIRMAN: The points of order are sustained.

Waiver of Reimbursement Requirements in Law

§ 38.7 Provisions in a paragraph of a general appropriation bill (1) authorizing the General Services Administration to acquire leasehold interests in property; (2) removing limitations imposed by law on the value of surplus strategic materials which may be transferred without reimbursement to the national stockpile; and

(3) authorizing materials in certain stockpiles and inventories to be available without reimbursement for transfer to contractors as payment for expenses, were conceded to be legislation and were stricken from the bill.

On Aug. 1, 1973,⁽⁶⁾ during consideration in the Committee of the Whole of a general appropriation bill (H.R. 9590), a point of order was raised against the following provision:

PROPERTY MANAGEMENT AND DISPOSAL SERVICE

OPERATING EXPENSES

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to the utilization of excess property; the disposal of surplus property; the rehabilitation of personal property; the appraisal of real and personal property; the national stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98-98h); the supplemental stockpile established by section 104(b) of the Agricultural Trade Development and Assistance Act of 1954 (68 Stat. 456, as amended by 73 Stat. 607); including services as authorized by 5 U.S.C. 3109 and reimbursement for security guard services, \$33,000,000, to be derived from proceeds from transfers of excess property, disposal of surplus property, and sales of stockpile mate-

6. 119 CONG. REC. 27288, 27289, 93d Cong. 1st Sess.

rials: [*Provided*, That during the current fiscal year the General Services Administration is authorized to acquire leasehold interests in property, for periods not in excess of twenty years, for the storage, security, and maintenance of strategic, critical, and other materials in the national and supplemental stockpiles provided said leasehold interests are at nominal cost to the Government: *Provided further*, That during the current fiscal year there shall be no limitation on the value of surplus strategic and critical materials which, in accordance with section 6 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e), may be transferred without reimbursement to the national stockpile:] *Provided further*, That during the current fiscal year materials in the inventory maintained under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061–2166), and excess materials in the national stockpile and the supplemental stockpile, the disposition of which is authorized by law, shall be available, without reimbursement, for transfer at fair market value to contractors as payment for expenses (including transportation and other accessorial expenses) of acquisition of materials, or of refining, processing, or otherwise beneficiating materials, or of rotating materials, pursuant to section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b), and of processing and refining materials pursuant to section 303(d) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093(d)): *Provided further*, That none of the funds available under this heading shall be available for transfer to any other account nor for the funding of any activities other

than those specifically authorized under this heading.⁽⁷⁾

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, a point of order.

THE CHAIRMAN:⁽⁸⁾ The gentleman will state it.

MR. DINGELL: Mr. Chairman, I rise again out of diligence to protect myself as to points of order.

At page 22, the first point of order is as to the words following the word "*Provided*" on page 22, line 6, down through the semicolon following the word "Government" at page 22, line 12.

I make the point of order, Mr. Chairman, together with another point of order on the same rule beginning with the words, "*Provided further*" down through the word "stockpile," at page 22, line 18, in that both of these provisos are violative of rule XXI, clause 2, and constitute legislation in an appropriation bill.

THE CHAIRMAN: Does the gentleman from Oklahoma desire to be heard on the point of order?

MR. [THOMAS J.] STEED [of Oklahoma]: Mr. Chairman, on the second point of order, I believe the gentleman does not intend to stop on line 22, does he? I believe he would have to go on to the end of the proviso.

MR. DINGELL: I intend to get the next proviso as soon as we dispose of these points of order.

MR. STEED: The gentleman stopped in the middle of a proviso.

MR. DINGELL: I am going to get the "*Provided further*," next.

MR. STEED: There is no "*Provided further*," next. This stops with the "supplemental stockpile" in line 22.

7. This last proviso was deemed a proper limitation.

8. Richard Bolling (Mo.).

MR. DINGELL: In order, Mr. Chairman, to assist my good friend from Oklahoma, I will make another point of order against the language beginning on page 22, line 18, with "*Provided further*," down through the conclusion of that "*Provided further*," on page 23, line 7; and then I will make a further point of order against the "*Provided further*," language on page 23, line 7, down through the end of line 10 on page 23; in that all of these provisos and "Provided furthers" do constitute violations of rule XXI, clause 2, and constitute legislation in an appropriation bill violation of the rules.

I again cite the requirement of the rules as set forth in the House rules, that the burden of establishing the soundness of an appropriation is upon the committee which offers it to the House, and I point out that that burden cannot be borne, and that these are violative of the rules, constituting legislation in an appropriation bill.

THE CHAIRMAN: Does the gentleman from Oklahoma desire to be heard on the point of order?

MR. STEED: Mr. Chairman, we concede the point of order.

THE CHAIRMAN: The point of order is conceded, and the point of order is sustained, and the language beginning with the word "*Provided*" on line 6, page 22, down through line 10, on page 23, ending with "this heading" is stricken.

MR. STEED: Mr. Chairman, the proviso was one starting on page 22 and going down to the word "stockpile" on line 18. That was the point of order made, against that language.

MR. DINGELL: Mr. Chairman, I beg to differ.

THE CHAIRMAN: The Chair believes the gentleman from Michigan made a point of order against the language in that proviso, the language in the second proviso of "*Provided further*," and in the third proviso, beginning on line 18, "*Provided further*," and then another "*Provided further*," beginning on line 7, page 23.

In other words, the Chair was under the impression that the gentleman made points of order against all the provisions beginning with "*Provided*," on page 22, line 6, through page 23, line 10.

MR. DINGELL: The Chair is correct.

THE CHAIRMAN: Which would have the effect of striking all the language the Chair just described?

MR. STEED: Mr. Chairman, the points of order made against the language are conceded down to line 7, page 23, but the language of that "*Provided further*," is a simple limitation on an appropriation bill and is not subject to a point of order.

THE CHAIRMAN: The Chair agrees with the gentleman from Oklahoma.

The various points of order that are conceded are sustained, and that language is stricken. The language:

Provided further, That none of the funds available under this heading shall be available for transfer to any other account nor for the funding of any activities other than those specifically authorized under this heading.

Which is a proper limitation and appears beginning in line 7, page 23, through line 10, remains in the bill, since the point of order has not been made against the entire paragraph.

Waived for Lands Not Producing Revenue

§ 38.8 A proposition in a general appropriation bill providing that reimbursement shall not be required for expenditures in connection with Indian lands for which no production or compensatory royalty accrues, or for expenditures in excess of 10 percent of such royalties accruing from mineral-lease operations within any reservation or agency jurisdiction was conceded and held to be legislation and not in order.

On Mar. 7, 1940,⁽⁹⁾ during consideration in the Committee of the Whole of the Interior Department appropriation bill (H.R. 8745), the following point of order was raised:

MR. [JACK] NICHOLS [of Oklahoma]: Mr. Chairman, I make a point of order. On page 29, beginning with the last word on the page, "to," I make a point of order against the following language:

to be reimbursed under the provisions of the Act of February 14, 1920, as amended (25 U.S.C. 413), except that reimbursement shall not be required for expenditures in connection with Indian lands for which no production or compensatory roy-

alty accrues, or for expenditures in excess of 10 percent of such royalties accruing from mineral-lease operations within any reservation or agency jurisdiction.

My point of order is that it is legislation on an appropriation bill.

THE CHAIRMAN:⁽¹⁰⁾ Does the gentleman from Oklahoma (Mr. Johnson) desire to be heard on the point of order?

MR. [JED] JOHNSON of Oklahoma: Mr. Chairman, we concede the point of order.

THE CHAIRMAN: The point of order is sustained.

For Presidential Use Without Reimbursement to Appropriation Accounts

§ 38.9 An amendment to an appropriation bill providing that in addition to the sum appropriated, supplies or funds shall be available for disposition by the President under the Act of Mar. 11, 1941, to carry out the provisions of the Act of Mar. 28, 1944, "without reimbursement of the appropriations from which such supplies or services were procured or such funds were provided," was conceded and held to be legislation where that law did not permit disposition without reimbursement.

9. 86 CONG. REC. 2532, 76th Cong. 3d Sess.

10. Jere Cooper (Tenn.).

On June 3, 1944,⁽¹¹⁾ during consideration in the Committee of the Whole of a general appropriation bill (H.R. 4937), a point of order was raised against the following amendment:

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cannon of Missouri: Page 6, after line 17, insert:

"Sec. 202. In addition to the sum appropriated by section 201 of this title, any supplies, services, or funds available for disposition or expenditure by the President under the act of March 11, 1941, as amended (22 U.S.C. 411-419), and acts supplementary thereto, may be disposed of or expended by the President to carry out the provisions of the act of March 28, 1944, without reimbursement of the appropriations from which such supplies or services were procured or such funds were provided."

MR. CANNON OF MISSOURI: Mr. Chairman, I ask for a vote on the amendment.

MR. [JOSEPH P.] O'HARA [of Minnesota]: I desire to make a point of order against the amendment offered by the gentleman from Missouri [Mr. Cannon], because it is legislation on an appropriation bill and not in order at this time. . . .

THE CHAIRMAN:⁽¹²⁾ The gentleman from Minnesota makes a point of order against the amendment and particu-

larly emphasizes that the amendment provides that the appropriation is "without reimbursement" and that "without reimbursement" is not contained in the statute.

The Chair will hear the gentleman from Missouri [Mr. Cannon].

MR. CANNON of Missouri: Mr. Chairman, we concede the point of order.

THE CHAIRMAN: The point of order is sustained.

Receipts From Operations to Repay Federal Investment—District of Columbia Airport

§ 38.10 Language in an appropriation bill providing for repayment of federal appropriations for an additional airport for the District of Columbia from income derived from operations was conceded and held to be legislation and not in order.

On Aug. 6, 1957,⁽¹³⁾ during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 9131), a point of order was raised against the following provision:

The Clerk read as follows:

11. 90 CONG. REC. 5252, 78th Cong. 2d Sess.

12. William M. Whittington (Miss.).

13. 103 CONG. REC. 13780, 85th Cong. 1st Sess.

CHAPTER I

Department of Commerce

Civil Aeronautics Administration

Construction and Development,
Additional Washington Airport

For necessary expenses for the construction and development of a public airport in the vicinity of the District of Columbia, as authorized by the act of September 7, 1950 (64 Stat. 770), including acquisition of land, \$12,500,000, to remain available until expended: Provided, That not to exceed a total of \$250,000 may be advanced to the applicable appropriations of the Civil Aeronautics Administration for necessary administrative expenses: *Provided further*, That beginning on June 30, 1965, and not later than June 30 of each year thereafter, the Administrator of the Civil Aeronautics Administration shall pay from income derived from operation of the airport an amount which will repay to the Treasury of the United States the full capital investment from Federal appropriations in a period of 35 years.

MR. [SAMUEL N.] FRIEDEL [of Maryland]: Mr. Chairman, a point of order.

THE CHAIRMAN: ⁽¹⁴⁾ The gentleman will state his point of order.

MR. FRIEDEL: Mr. Chairman, I make a point of order against the entire paragraph on page 2, lines 1 to 20 inclusive, on the ground that the last proviso thereof contains legislation on an appropriation bill. This proviso requires repayment of Federal appropriations made for the airport, and in that respect amends the basic law which authorized the airport.

THE CHAIRMAN: Does the gentleman from Texas wish to be heard on the point of order?

14. Paul J. Kilday (Tex.).

MR. [ALBERT] THOMAS [of Texas]: Mr. Chairman, it is, perhaps, a close point, whether this comes under the Holman rule; but we concede the point of order and offer an amendment.

THE CHAIRMAN: The gentleman from Texas [Mr. Thomas] concedes the point of order made by the gentleman from Maryland [Mr. Friedel]. The Chair sustains the point of order.

—Receipts Generated From Irrigation Projects

§ 38.11 Language in a general appropriation bill providing that money received by the United States in connection with any irrigation project constructed by the federal government shall be covered into the general fund until such fund has been reimbursed, was conceded and held to be legislation on an appropriation bill and not a Holman rule retrenchment of funds covered by the bill.

On Nov. 29, 1945,⁽¹⁵⁾ during consideration in the Committee of the Whole of the first deficiency appropriation bill (H.R. 4805), a point of order was raised against the following provision:

The Clerk read as follows:

Total, general fund, construction, \$42,765,000: *Provided*, That all mon-

15. 91 CONG. REC. 11192, 11193, 79th Cong. 1st Sess.

eys hereafter received by the United States in connection with any irrigation project, including the incidental power features thereof, constructed by the Secretary of the Interior through the Bureau of Reclamation, and financed in whole or in part with moneys heretofore or hereafter appropriated or allocated therefor by the Federal Government from the general fund, shall be covered into the general fund until the general fund has been reimbursed in full for allocations and appropriations made to such project from the general fund, except in cases where provision has been made by law or contract for the use of such revenues for the benefit of users of water from such project: *Provided further*, That the portion of appropriations or allocations invested in the power features of such projects shall be fully amortized and repaid within 50 years with interest at the rate of 3 percent per annum.

MR. (J. W.) ROBINSON of Utah: Mr. Chairman, I make the point of order against the proviso commencing on page 30, line 15, and continuing on page 31 down to the end of line 6 that it is legislation on an appropriation bill.

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, the committee concedes the point of order. . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, I desire to be heard on the point of order. It is manifest that this item requires that funds received shall be covered into the general fund of the Treasury until the general fund has been fully reimbursed for the amount that it has expended. In my opinion that is in order under the Holman rule. It saves money to the Treasury on the face of the document.

THE CHAIRMAN:⁽¹⁶⁾ The Chair thinks it is clearly legislation on an appro-

priation bill, and so holds. The point of order is sustained.

Parliamentarian's Note: To justify legislative language in an appropriation bill under the Holman rule, the provision must show a retrenchment as a necessary result; and if an amendment, must be germane to the bill.

—*Tennessee Valley Authority*

§ 38.12 Language in an appropriation bill providing funds for resource development activities of the Tennessee Valley Authority, stating that part of the funds therefor should be derived from the appropriated funds and part from proceeds of operation, was held to be legislation and not in order.

On May 28, 1956,⁽¹⁷⁾ during consideration in the Committee of the Whole of the Department of the Interior appropriation bill (H.R. 11319), the following point of order was raised:

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, I make a point of order against certain language in the Tennessee Valley Authority paragraph as follows: . . .

. . . On page 3, lines 1 to 3 “, of which \$400,000 shall be derived from this appropriation and \$750,000 shall

16. R. Ewing Thomason (Tex.).

17. 102 CONG. REC. 8725, 84th Cong. 2d Sess.

be derived from proceeds of operations of the Tennessee Valley Authority."

Mr. Chairman, I make the point of order that all of the language to which I have referred is legislation on an appropriation bill. . . .

THE CHAIRMAN:⁽¹⁸⁾ . . . It is clearly legislation on an appropriation bill and the point of order is sustained.

—Travel Expenses Paid by States

§ 38.13 In an appropriation bill providing funds for salaries and expenses, Office of Education, a provision that "all receipts from non-Federal agencies representing reimbursement for expenses of travel of employees of the Office of Education performing advisory functions to the said agencies shall be deposited in the Treasury of the United States to the credit of this appropriation," was conceded and held to be legislation and not in order.

On Apr. 2, 1957,⁽¹⁹⁾ during consideration in the Committee of the Whole of the Departments of Labor and Health, Education, and Welfare appropriation bill (H.R. 6287), a point of order was raised against the following provision:

Salaries and expenses: For expenses necessary for the Office of Education,

18. Jere Cooper (Tenn.).

19. 103 CONG. REC. 4972, 85th Cong. 1st Sess.

including surveys, studies, investigations, and reports regarding libraries; fostering coordination of public and school library service; coordination of library service on the national level with other forms of adult education; developing library participation in Federal projects; fostering nationwide coordination of research materials among libraries, interstate library coordination and the development of library service throughout the country; purchase, distribution, and exchange of educational documents, motion-picture films, and lantern slides; collection, exchange, and cataloging of educational apparatus and appliances, articles of school furniture and models of school buildings illustrative of foreign and domestic systems and methods of education, and repairing the same; and cooperative research, surveys, and demonstrations in education as authorized by the act of July 26, 1954 (20 U.S.C. 331–332); \$7 million, of which not less than \$550,000 shall be available for the Division of Vocational Education as authorized: *Provided*, That all receipts from non-Federal agencies representing reimbursement for expenses of travel of employees of the Office of Education performing advisory functions to the said agencies shall be deposited in the Treasury of the United States to the credit of this appropriation.

MR. [EDGAR W.] HIESTAND [of California]: Mr. Chairman, I make a point of order against the language beginning in line 17, page 19, down through line 22.

THE CHAIRMAN:⁽²⁰⁾ Beginning where?

20. Aime J. Forand (R.I.).

MR. HIESTAND: This language:

Provided, That all receipts from non-Federal agencies representing reimbursement for expenses of travel of employees of the Office of Education performing advisory functions to the said agencies shall be deposited in the Treasury of the United States to the credit of this appropriation.

We would redistribute the money, and I suggest, Mr. Chairman, that that is definitely legislation on an appropriation bill.

THE CHAIRMAN: Does the gentleman from Rhode Island desire to be heard on the point of order?

MR. [JOHN E.] FOGARTY [of Rhode Island]: This was only an attempt to have the States reimburse the Federal Government for the technical assistance that the States call on the Department of Education to give. Now, if you want it all to come out of the Federal Treasury and not have the States make this reimbursement, this is the way to do it. It is clearly subject to a point of order, and I concede the point of order.

THE CHAIRMAN: The Chair has examined the language in the bill and sustains the point of order.

Reimbursements for Indian Educational Expenses

§ 38.14 Language in an appropriation bill appropriating money to be advanced for certain purposes coupled with a direction that such advances shall be reimbursable during a fixed period under rules and regulations

prescribed by an executive officer was held to be legislation and not in order.

On May 14, 1937,⁽¹⁾ the Committee of the Whole was considering H.R. 6958, an Interior Department appropriation bill. A point of order was raised against the following paragraph:

For the purpose of encouraging industry and self-support among the Indians and to aid them in the culture of fruits, grains, and other crops, \$165,000, which sum may be used for the purchase of seeds, animals, machinery, tools, implements, and other equipment necessary . . . *Provided further*, That not to exceed \$15,000 may be advanced to worthy Indian youths to enable them to take educational courses, including courses in nursing home economics, forestry, and other industrial subjects in colleges, universities, or other institutions, and advances so made shall be reimbursed in not to exceed 8 years, under such rules and regulations as the Secretary of the Interior may prescribe.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the paragraph beginning on page 26, line 4. The point of order is that this is legislation on an appropriation bill and it imposes discretionary duties upon the Secretary of the Interior. The language at the bottom of the bill, beginning with "*Provided further*", line 22, and the last proviso are entirely the same. They provide that the Secretary of the Interior shall make

1. 81 CONG. REC. 4598, 4599, 75th Cong. 1st Sess.

rules and regulations and there is no question but what it imposes additional duties upon the Secretary of the Interior all the way through.

In lines 17 and 18 the terms of repayment are made subject to the discretion of the Secretary of the Interior and in lines 9 and 10 it is subject to that same discretion. This is all on page 26. The whole paragraph is subject to discretion and imposes duties upon the Secretary. . . .

THE CHAIRMAN: ⁽²⁾ The Chair would like to inquire further of the gentleman with reference to the language appearing in lines 7 and 8, page 27, reading as follows:

And advances so made shall be reimbursed in not to exceed 8 years under such rules and regulations as the Secretary of the Interior may prescribe.

Will the gentleman advise the Chair as to any provision of existing law upon which this language is based?

MR. [JED] JOHNSON of Oklahoma: Mr. Chairman, this is the exact language that has been used for several years and the gentleman from Oklahoma knows of no specific basis of law for it.

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from New York makes a point of order against the entire paragraph beginning in line 4, page 26, extending down to and including line 9, page 27. The gentleman from New York [Mr. Taber] in making his point of order invited attention to certain language appearing in lines 10 and 11, page 26, with reference to the

discretion of the Secretary of the Interior.

The Chair has examined the act commonly referred to and known as the Snyder Act and invites attention to section 13 of that act, in which the following appears:

Expenditures of appropriations by Bureau of Indian Affairs: The Bureau of Indian Affairs, under the supervision of the Secretary of the Interior, shall direct, supervise, and expend such moneys as Congress may from time to time appropriate for the benefit, care, and assistance of the Indians throughout the United States for the following purposes: General support and civilization, including education; for industrial assistance and advancement and general administration of Indian problems. Further, for general and incidental expenses in connection with the administration of Indian affairs.

It is the opinion of the Chair that the act to which attention has been invited confers upon the Secretary of the Interior rather broad discretionary authority. The Chair is of opinion that the language to which the gentleman invited attention is not subject to a point of order, but that the language to which the Chair invited the attention of the gentleman from Oklahoma with reference to the provisos does constitute legislation on an appropriation bill not authorized by the rules of the House. It naturally follows that as the point of order has to be sustained as to these two provisos, it has to be sustained as to the entire paragraph. The Chair therefore sustains the point of order made by the gentleman from New York.

2. Jere Cooper (Tenn.).